Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHUL-HO JEON

Appeal No. 2000-0374
Application No. 08/686,526

ON BRIEF

Before THOMAS, FLEMING, and BLANKENSHIP, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claims 1 through 3.

Representative claim 1 is reproduced below:

> 1. A pickup adjusting apparatus in an optical disk player which includes a deck and a pickup, said pickup adjusting apparatus comprising:
>
> at least one pair of guide shafts installed on the deck and for supporting and guiding the pickup, each of said guide shafts having a hole at at least one axial end thereof;

an adjusting member inserted into each said hole and threadedly engaged with the deck; and

a spring installed between each of said guide shafts and the deck and for providing a resistive force against a rotation of said adjusting member and biasing said guide shafts away from the deck, thereby to allow appropriate adjustment of the distance between the deck and each of said guide shafts.

The following references are relied on by the examiner:

Yamashita	5,036,507	Jul. 30, 1991
Kato et al. (Kato)	5,124,974	Jun. 23, 1992
Sakashita et al. (Sakashita)	5,488,526	Jan. 30, 1996

Claims 1 through 3 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Kato in view of Yamashita as to claims 1 and 3, with the addition of Sakashita as to claim 2.

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and the answer for the respective details thereof.

OPINION

We reverse. The examiner has not established a prima facie case of obviousness within 35 U.S.C. § 103.

As to independent claim 1 on appeal, the examiner

proposes to modify Kato's prior art Figures 9 and 10 with an assertion of Official Notice that it is old and well known in the art to adjust the pickup tilt by means of moving a guide shaft. More specifically, the examiner urges that it would have been obvious to the artisan to have adjusted Kato's pickup tilt by adjusting the tilt of the guide shaft as evidenced by Yamashita.

Each of a pair of guide shafts in claim 1 on appeal is recited to have a hole at at least one axial end thereof as well as an adjusting member inserted into each of these holes and threadedly engaged with the deck. The claim further requires that a spring be installed between each of the guide shafts in the deck to provide a resistive force against a rotation of the adjusting member and biasing the guide shafts away from the deck to allow appropriate adjustment of the distance between the deck and each of the guide shafts.

We do not agree with the examiner's conclusion that, based upon the teachings of Yamashita, it would have been obvious to have utilized the teachings and showings in Kato's Figure 10, for example, of an adjusting member in the form of screw 10 threadedly engaging, by means of threaded hole $3a_1$ the

slider

3, where a spring 11 is inserted between the lever 4 on which is mounted the pickup in such a manner as to spring bias the lever

4 (and in effect the pickup 7 itself), and to then import such teaching so as to spring bias the guide shafts 23A-23B on which the entire slider 25 radially moves as in Figure 1 of Kato.

We find ourselves in agreement with appellant's arguments presented at page 8 of the brief:

> Thus, not only are the adjustment screw 10 and spring 11 utilized for adjusting the inclination of the pickup 7 in a tangential direction, as opposed to adjustment of the distance between a deck and a guide shaft thereby to adjust the tilt of the pickup and correct inclination errors in a radial direction of a disk, but the adjustment screw 10 is threadedly engaged with a radially movable slider 3 and not with a stationary chassis or deck, as asserted in the rejection. Appellant specifically traverses the substitution of screw 10 and spring 11, which directly adjust the inclination of the pickup 7 in the tangential direction, for the screws shown at the ends of the shafts 23A and 23B in Figure 1 of Kato on the basis that there is no motivation whatsoever for making such a modification absent Appellant's own teaching as a guide. Such impermissible hindsight reconstruction is clearly improper.

As expressed by appellant at page 9 of the brief,

Yamashita clearly fails to support the Examiner's Official Notice. The complex titling servo control taught by Yamashita clearly fails to provide any motivation whatsoever for providing an adjusting member inserted into a hole at an axial end of a guide shaft and threadedly engaged with a deck, and a spring installed between the guide shaft and the deck for providing a resistive force against a rotation of the adjusting member and biasing the guide shaft away from the deck, thereby to allow appropriate adjustment of the distance between the deck and the guide shaft, as

> recited in Appellant's claim 1. In short, simply referring to a broad teaching of tilting an optical pickup via the tilting of a guide shaft in no way provides any guidance whatsoever with respect to Appellant's spring biased adjusting member.

Even though we agree with the examiner's views expressed at page 5 of the answer that Kato would have reasonably indicated or otherwise suggested to the artisan that the screws shown at the end portions of the guide shafts 23A, 23B in Figure 1 of Kato are inserted into corresponding end holes in the axial ends of these respective shafts, we cannot agree with the examiner's conclusion that the artisan would have found it obvious to have adjusted the tilt of the entire length or at least one end of these respective shafts based upon the spring biased screw arrangement depicted in Figure 10 of Kato as modified by the movable fulcrum 5 arrangement in Yamashita which tilts the racking plate 22 to in turn tilt the sliding shaft 21 to which is mounted the pickup 1 in the Figure 1 and 2 embodiments.

We agree with the examiner's observation at page 6 of the answer that the corresponding adjustable structure as urged by the examiner "could" have been arrived at by the artisan. Yet

a proper assessment of teachings and suggestions within 35 U.S.C. § 103 requires that there be much more certainty in that we have

to independently conclude that such a combination “would” have been obvious within 35 U.S.C. § 103 to the artisan. Based on the evidence provided in this appeal, we cannot agree with the examiner’s views.

Appellant’s claimed invention, Kato and Yamashita each achieve the same goal of tilting the pickup by different means.

Since we cannot sustain the rejection of independent claim 1 and its dependent claim 3 based upon the collective teachings and showings of Kato in view of Yamashita, we must also reverse the rejection of dependent claim 2 further in view of Sakashita.

In view of the foregoing, the decision of the examiner rejecting claims 1 through 3 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)	
MICHAEL R. FLEMING Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
HOWARD B. BLANKENSHIP Administrative Patent Judge	)	

JDT:hh

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 PENNSYLVANIA AVE., N.W.
WASHINGTON, DC 20037-3202